

PC

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To:

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NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing
(day/month/year)

19.10.2004

Applicant's or agent's file reference
PC/CP/P13704PC

IMPORTANT NOTIFICATION

International application No.
PCT/GB 03/04144

International filing date (day/month/year)
23.09.2003

Priority date (day/month/year)
24.09.2002

Applicant
UNIVERSITY OF DUNDEE et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:



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PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PC/CP/P13704PC	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/04144	International filing date (<i>day/month/year</i>) 23.09.2003	Priority date (<i>day/month/year</i>) 24.09.2002
International Patent Classification (IPC) or both national classification and IPC A61B1/31		
Applicant UNIVERSITY OF DUNDEE et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 16.04.2004	Date of completion of this report 19.10.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Dhervé, G Telephone No. +49 89 2399-2877 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/04144

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-18 as originally filed

Claims, Numbers

1-23 as originally filed

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☒ the claims, Nos.: 24-48
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/04144

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	10,12,13,16,19,21-23
	No: Claims	1-9,11,14,15,17,18,20
Inventive step (IS)	Yes: Claims	10,12,13,16,19
	No: Claims	1-9,11,14,15,17,18,20-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

V. Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

D1: WO-A-99/51283

D2: US-A-4 615 331

D3: US-A-4 321 915

V.1. Independent claim 1

The document D1 discloses (see page 15, line 30-page 16, line 24, page 25, line 34-page 27, line 11, page 29, lines 11-27, figures 1, 3 and 4; the references in parentheses applying to this document) a transportation apparatus for transportation of an inspection device within a body cavity, the apparatus comprising:

- a carrier (2,10) for insertion into an opening of the body cavity, the carrier moveable between a collapsed position and an extended position where the carrier extends along a length of the cavity,
- a guide member (1) coupled to the carrier, the guide member adapted to be carried into the cavity by the carrier when the carrier is moved to the extended position, such that the guide member acts as a guide for transportation of the inspection device within the cavity.

It is to be noted that the content of claim 1 can also be read in document D2 (see the abstract) and D3 (see the abstract).

Thus, the subject-matter of **independent claim 1** is not novel in the sense of Article 33(2) PCT.

V.2. Dependent claims 2-23

Dependent claims 2-9, 11, 14, 15, 17, 18 and 20 do not contain any features which, in combination with the features of independent claim 1 to which they refer, meet the requirements of the PCT in respect of novelty (Article 33(2) PCT), document D1 showing:

- a guide member that is moveable between a relaxed state and a rigid state, as defined in claims 2-5 (see page 29, lines 20-27);
- a guide member which is at least partly rigid (see page 29, lines 20-27), as defined in claim 6, and which comprises an endoscope as defined in claim 7 (see page

16, line 5-page 17, line 20);

- a guide member which is releaseably coupled to the carrier (see the passage bridging pages 20 and 21), as defined in claims 8 and 9;
- a guide member with engagements portions adapted to be engaged by an inspection device (see figures 1, 2 and page 14, line 17-page 16, line 3), as defined in claims 11 and 14;
- locking elements for locking the guide member in a rigid state (see page 29, lines 11-33), as defined in claims 15 and 17. Furthermore the known locking elements are implicitly adapted to be actuated at different temperature, as defined in claim 18;
- a flexible carrier (see the passages bridging pages 18, 19 and pages 25, 26), as defined in claim 20.

Document D1 shows a carrier (2) which is inserted in an everted position during use. Everted carriers that are inflatable are commonly used in the art. Therefore the choice of selecting such a design possibility, as defined in **dependent claims 21-23**, does not involve an inventive step in the sense of Article 33(3) PCT(see also documents D2 and D3).

The combinations of the features of **dependent claims 10, 12, 13, 16 or 19** are neither known from, nor rendered obvious by, the available prior art.